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HONOURABLE SRI JUSTICE RAMESH RANGANATHAN

WRIT PETITION NO:7312 of 1994

DATED:12-06-2006

Between:

Yerukala Thippanna

..... PETITIONER

AND

1. The Govt. of A.P., rep.by its Secretary, Social Welfare (J) Department, Hyderabad and 2 others

.....RESPONDENTS

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ORAL ORDER:

In this writ petition the petitioner questions the action of the second respondent in seeking to compulsorily retire him from service on the basis of the report of the Director of Tribal Welfare holding that the caste certificate produced by the petitioner, of his belonging to the scheduled tribe, was not genuine.

Aggrieved by the order of the second respondent the petitioner herein preferred an appeal to the first respondent. During the pendency of this writ petition the petitioner died. Consequent thereto his legal representatives, petitioners 2 to 5, were brought on record.

Smt. P.Sarada, learned counsel for the petitioner, would draw attention of this Court to paragraph 11 of the affidavit, filed in support of the writ petition, wherein it is specifically stated that the petitioner had preferred an appeal against the order of the District Collector dated 11-12-1987, on 22-09-1988, and that subsequently the petitioner had got issued a notice through his counsel on 29-10-1991 but however, the first respondent had chosen not to dispose of the appeal. Learned counsel would also refer to the averment in the affidavit wherein it is stated that failure of the first respondent to dispose of the appeal resulted the petitioner filing W.P.No.7234 of 1992 which writ petition was disposed of by this Court directing the Government to dispose of the appeal within two weeks.

Smt.P.Sharada, learned counsel for the petitioner, would submit that till the legal representatives were brought on record by order dated 30-11-2004, the appeal preferred by the petitioner had not been disposed of. Learned counsel would fairly submit that she has no instructions as to whether subsequent thereto the appeal preferred by the petitioner has been disposed of or not.

The fact remains that the petitioner was compulsorily retired from service on the ground that the caste certificate produced by him was not genuine. During the pendency of the appeal or during the pendency of these writ proceedings there was no stay operating in favour of the petitioner and as such the order of compulsory retirement passed by the second respondent continued to remain in force. In case the appeal, preferred by the petitioner,

were to be allowed, his legal representatives would derive the benefit of payment of salary for the period which the petitioner herein was deprived of continuing in service.

It would therefore meet the ends of justice if the first respondent is directed to dispose of the appeal, if it is still pending consideration as on date, in accordance with law within a period of two months from the date of receipt of a copy of this order.

The writ petition is accordingly disposed of. However, in the circumstances, without costs.

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12th June, 2006

SKM